IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1236 of 2005

Between:

Peram Venkata Rathamma, W/o.Nagaiah,
Ramasamudram, Tripuranthakam Mandal,
Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Prakasam District, Ongole.
2 The Revenue Divisional officer, Markapur, Prakasam District.
3 The Mandal Revenue officer, Tripuranthakam Mandal, Prakasam District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ order or direction more particularly one in the nature of writ of Mandamus, to declare the impugned proceedings of the respondent No.1 dt.17-12-2004 in Rc.CS2/4773/2004 rejecting to grant stay of the orders of the proceedings of the 2nd respondent dt.8-11-2004 in D.Dis(H)/1130/2004 as illegal, arbitrary, unjust and consequently set aside the proceedings of the 2nd respondent dt.8-11-2004 in D.Dis(H)/1130/2004 and to grant such other relief or reliefs as this Hon'ble court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner:K.ARUNA

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

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The authorization of the petitioner was cancelled by the 2nd respondent through his proceedings, dated 08.11.2004. Aggrieved thereby, petitioner preferred an appeal before the 1st respondent. She also filed an application for stay. Through his order, dated 17.12.2004, the 1st respondent rejected the application. Hence, this writ petition.

Learned counsel for the petitioner submits that the petitioner approached this Court on an earlier occasion by filing W.P.No.14732 of 2004, complaining that no show cause notice was served upon her, and the writ petition was disposed of on 07.10.2004, directing the 2nd respondent to serve notice and pass appropriate orders. It is represented that a notice of hearing was served upon the petitioner fixing the date of hearing as 08.11.2004, and on receipt of the same, petitioner made a request for adjournment, on account of ill-health, and despite the same, the 2nd respondent passed an order of cancellation.

Learned Government Pleader for Civil Supplies, on the other hand, submits that though the petitioner was provided with ample opportunity, she did not avail the same.

As of now, the petitioner had availed the remedy of appeal against the order of

cancellation. In the ordinary course, since it should be left for the 1st respondent to decide the matter on merits. However, having regard to the limited nature of the complaint, the matter need not be kept pending for months or years together.

It is not in dispute that the petitioner approached this Court by filing a writ petition complaining that the show cause notice was not served upon her. This Court disposed of the writ petition directing that the petitioner shall be given an opportunity of being heard. It is true that a notice of hearing was served upon the petitioner fixing the date of hearing as 08.11.2004. Petitioner submitted a representation before the 2nd respondent to adjourn the matter for few days, on account of ill health. The order of cancellation does not refer to the request made by the petitioner, or the reaction of the 2nd respondent, thereon. Rule 5 (4) of the A.P.State Public Distribution System Control Order, 2001, mandates that apart from issuing a show cause notice, the appointing authority shall also provide an opportunity of being heard to the affected parties. In that view of the matter, it cannot be said that there is adequate compliance with the said rule. On this short ground, the order of cancellation is set aside and the matter is remanded to the 2nd respondent for fresh consideration and disposal. It is, however, directed that the petitioner shall appear before the 2nd respondent on the date fixed for hearing, and shall not seek any adjournment. No order as to costs.

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L.NARASIMHA REDDY, J

Dated : 16.02.2005

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To

1 The Joint Collector, Prakasam District, Ongole.
2 The Revenue Divisional officer, Markapur, Prakasam District.
3 The Mandal Revenue officer, Tripuranthakam Mandal, Prakasam District.

4 2 CCs to the Government Pleader for Civil Supplies, High Court Buildings, Hyderabad. (OUT)

5 2CD copies.